

AMENDED IN SENATE APRIL 20, 2006

AMENDED IN SENATE APRIL 17, 2006

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL

No. 1430

Introduced by Senator Alquist

February 22, 2006

An act to amend Section 56.10 of the Civil Code, to amend Sections 101080 and 101085 of, and to add Sections 101080.2 and 120176 to, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1430, as amended, Alquist. The Local Pandemic and Emergency Health Preparedness Act of 2006.

Existing law authorizes the Director of Health Services and local health officers to issue orders to enforce various public health and safety requirements. Existing law also authorizes local peace officers to enforce orders of the State Department of Health Services and of local health officers issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease and authorizes the Director of Health Services and the local health officer to consider whether a request for enforcement assistance would necessitate advising regarding measures to be taken to prevent infection of enforcement officers when requesting assistance in enforcement of their orders.

This bill would enact the Local Pandemic and Emergency Health Preparedness Act of 2006, ~~and state the intent of the Legislature to adopt this act in order to establish a mechanism by which local health~~

~~officers and providers can mobilize and take appropriate actions in the event of a public health emergency and crisis.~~

Existing law provides that no provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, with certain exceptions.

This bill would also authorize the disclosure of information to a local health department for the purpose of preventing or controlling disease injury, or disability as authorized by state and federal law.

Existing law provides that whenever a release, spill, escape, or entry of waste occurs as described and the director or the local health officer reasonably determines that the waste is a hazardous waste or medical waste, or that it may become a hazardous waste or medical waste because of a combination or reaction with other substances or materials, and the director or local health officer reasonably determines that the release or escape is an immediate threat to the public health, the director may declare a health emergency and the local health officer may declare a county health emergency in the county or any area thereof affected by the threat to the public health.

This bill would include circumstances where there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent to the scope of that authorization.

Existing law authorizes local health officers, after the declaration of a health emergency, to take certain measures.

This bill would specify the responsibilities of local and state entities after the declaration of a health emergency by a local health officer.

This bill would provide that if there is an imminent and proximate threat of human exposures to biological, chemical, toxic, or radiological agents that may spread to others and require immediate action, including, but not limited to, decontamination, the local health officer may issue an order to first responders for the purpose of immediately isolating exposed individuals, and would make a violation of that provision a crime. By defining a new crime, this bill would result in a state-mandated local program.

This bill would require each local health officer to take reasonable measures, as specified, in order to prevent or respond to an imminent and proximate threat of any serious or life threatening contagious, infectious, or communicable disease, chemical agent,

noncommunicable biologic agent, toxin, or radioactive. By increasing the responsibilities of local health officers, this bill would result in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited as the
2 Local Pandemic and Emergency Health Preparedness Act of
3 2006.

4 ~~SEC. 2. It is the intent of the Legislature to adopt the Local~~
5 ~~Pandemic and Emergency Health Preparedness Act of 2006 to~~
6 ~~establish a mechanism by which local health officers and~~
7 ~~providers can mobilize and take appropriate actions in the event~~
8 ~~of a public health emergency and crisis.~~

9 SEC. 2. Section 56.10 of the Civil Code is amended to read:

10 56.10. (a) No provider of health care, health care service
11 plan, or contractor shall disclose medical information regarding a
12 patient of the provider of health care or an enrollee or subscriber
13 of a health care service plan without first obtaining an
14 authorization, except as provided in subdivision (b) or (c).

15 (b) A provider of health care, a health care service plan, or a
16 contractor shall disclose medical information if the disclosure is
17 compelled by any of the following:

18 (1) By a court pursuant to an order of that court.

19 (2) By a board, commission, or administrative agency for
20 purposes of adjudication pursuant to its lawful authority.

21 (3) By a party to a proceeding before a court or administrative
22 agency pursuant to a subpoena, subpoena duces tecum, notice to

1 appear served pursuant to Section 1987 of the Code of Civil
2 Procedure, or any provision authorizing discovery in a
3 proceeding before a court or administrative agency.

4 (4) By a board, commission, or administrative agency pursuant
5 to an investigative subpoena issued under Article 2 (commencing
6 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
7 2 of the Government Code.

8 (5) By an arbitrator or arbitration panel, when arbitration is
9 lawfully requested by either party, pursuant to a subpoena duces
10 tecum issued under Section 1282.6 of the Code of Civil
11 Procedure, or any other provision authorizing discovery in a
12 proceeding before an arbitrator or arbitration panel.

13 (6) By a search warrant lawfully issued to a governmental law
14 enforcement agency.

15 (7) By the patient or the patient's representative pursuant to
16 Chapter 1 (commencing with Section 123100) of Part 1 of
17 Division 106 of the Health and Safety Code.

18 (8) By a coroner, when requested in the course of an
19 investigation by the coroner's office for the purpose of
20 identifying the decedent or locating next of kin, or when
21 investigating deaths that may involve public health concerns,
22 organ or tissue donation, child abuse, elder abuse, suicides,
23 poisonings, accidents, sudden infant death, suspicious deaths,
24 unknown deaths, or criminal deaths, or when otherwise
25 authorized by the decedent's representative. Medical information
26 requested by the coroner under this paragraph shall be limited to
27 information regarding the patient who is the decedent and who is
28 the subject of the investigation and shall be disclosed to the
29 coroner without delay upon request.

30 (9) When otherwise specifically required by law.

31 (c) A provider of health care or a health care service plan may
32 disclose medical information as follows:

33 (1) The information may be disclosed to providers of health
34 care, health care service plans, contractors, or other health care
35 professionals or facilities for purposes of diagnosis or treatment
36 of the patient. This includes, in an emergency situation, the
37 communication of patient information by radio transmission or
38 other means between emergency medical personnel at the scene
39 of an emergency, or in an emergency medical transport vehicle,
40 and emergency medical personnel at a health facility licensed

1 pursuant to Chapter 2 (commencing with Section 1250) of
2 Division 2 of the Health and Safety Code.

3 (2) The information may be disclosed to an insurer, employer,
4 health care service plan, hospital service plan, employee benefit
5 plan, governmental authority, contractor, or any other person or
6 entity responsible for paying for health care services rendered to
7 the patient, to the extent necessary to allow responsibility for
8 payment to be determined and payment to be made. If (A) the
9 patient is, by reason of a comatose or other disabling medical
10 condition, unable to consent to the disclosure of medical
11 information and (B) no other arrangements have been made to
12 pay for the health care services being rendered to the patient, the
13 information may be disclosed to a governmental authority to the
14 extent necessary to determine the patient's eligibility for, and to
15 obtain, payment under a governmental program for health care
16 services provided to the patient. The information may also be
17 disclosed to another provider of health care or health care service
18 plan as necessary to assist the other provider or health care
19 service plan in obtaining payment for health care services
20 rendered by that provider of health care or health care service
21 plan to the patient.

22 (3) The information may be disclosed to any person or entity
23 that provides billing, claims management, medical data
24 processing, or other administrative services for providers of
25 health care or health care service plans or for any of the persons
26 or entities specified in paragraph (2). However, no information so
27 disclosed shall be further disclosed by the recipient in any way
28 that would be violative of this part.

29 (4) The information may be disclosed to organized committees
30 and agents of professional societies or of medical staffs of
31 licensed hospitals, licensed health care service plans, professional
32 standards review organizations, independent medical review
33 organizations and their selected reviewers, utilization and quality
34 control peer review organizations as established by Congress in
35 Public Law 97-248 in 1982, contractors, or persons or
36 organizations insuring, responsible for, or defending professional
37 liability that a provider may incur, if the committees, agents,
38 health care service plans, organizations, reviewers, contractors,
39 or persons are engaged in reviewing the competence or
40 qualifications of health care professionals or in reviewing health

1 care services with respect to medical necessity, level of care,
2 quality of care, or justification of charges.

3 (5) The information in the possession of any provider of health
4 care or health care service plan may be reviewed by any private
5 or public body responsible for licensing or accrediting the
6 provider of health care or health care service plan. However, no
7 patient-identifying medical information may be removed from
8 the premises except as expressly permitted or required elsewhere
9 by law, nor shall that information be further disclosed by the
10 recipient in any way that would violate this part.

11 (6) The information may be disclosed to the county coroner in
12 the course of an investigation by the coroner's office when
13 requested for all purposes not included in paragraph (8) of
14 subdivision (b).

15 (7) The information may be disclosed to public agencies,
16 clinical investigators, including investigators conducting
17 epidemiologic studies, health care research organizations, and
18 accredited public or private nonprofit educational or health care
19 institutions for bona fide research purposes. However, no
20 information so disclosed shall be further disclosed by the
21 recipient in any way that would disclose the identity of any
22 patient or be violative of this part.

23 (8) A provider of health care or health care service plan that
24 has created medical information as a result of
25 employment-related health care services to an employee
26 conducted at the specific prior written request and expense of the
27 employer may disclose to the employee's employer that part of
28 the information that:

29 (A) Is relevant in a lawsuit, arbitration, grievance, or other
30 claim or challenge to which the employer and the employee are
31 parties and in which the patient has placed in issue his or her
32 medical history, mental or physical condition, or treatment,
33 provided that information may only be used or disclosed in
34 connection with that proceeding.

35 (B) Describes functional limitations of the patient that may
36 entitle the patient to leave from work for medical reasons or limit
37 the patient's fitness to perform his or her present employment,
38 provided that no statement of medical cause is included in the
39 information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition and care and treatment provided may be disclosed to a probate court investigator engaged in determining the need for an initial conservatorship or continuation of an existent conservatorship, if the patient is unable to give informed consent, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms

1 “tissue bank” and “tissue” have the same meaning as defined in
2 Section 1635 of the Health and Safety Code.

3 (14) The information may be disclosed when the disclosure is
4 otherwise specifically authorized by law, such as the voluntary
5 reporting, either directly or indirectly, to the federal Food and
6 Drug Administration of adverse events related to drug products
7 or medical device problems.

8 (15) Basic information, including the patient’s name, city of
9 residence, age, sex, and general condition, may be disclosed to a
10 state or federally recognized disaster relief organization for the
11 purpose of responding to disaster welfare inquiries.

12 (16) The information may be disclosed to a third party for
13 purposes of encoding, encrypting, or otherwise anonymizing
14 data. However, no information so disclosed shall be further
15 disclosed by the recipient in any way that would be violative of
16 this part, including the unauthorized manipulation of coded or
17 encrypted medical information that reveals individually
18 identifiable medical information.

19 (17) For purposes of disease management programs and
20 services as defined in Section 1399.901 of the Health and Safety
21 Code, information may be disclosed as follows: (A) to any entity
22 contracting with a health care service plan or the health care
23 service plan’s contractors to monitor or administer care of
24 enrollees for a covered benefit, provided that the disease
25 management services and care are authorized by a treating
26 physician, or (B) to any disease management organization, as
27 defined in Section 1399.900 of the Health and Safety Code, that
28 complies fully with the physician authorization requirements of
29 Section 1399.902 of the Health and Safety Code, provided that
30 the health care service plan or its contractor provides or has
31 provided a description of the disease management services to a
32 treating physician or to the health care service plan’s or
33 contractor’s network of physicians. Nothing in this paragraph
34 shall be construed to require physician authorization for the care
35 or treatment of the adherents of any well-recognized church or
36 religious denomination who depend solely upon prayer or
37 spiritual means for healing in the practice of the religion of that
38 church or denomination.

39 (18) *The information may be disclosed, as permitted by state*
40 *and federal law or regulation, to a local health department for*

1 *the purpose of preventing or controlling disease, injury, or*
2 *disability, including, but not limited to, the reporting of disease,*
3 *injury, vital events such as birth or death, and the conduct of*
4 *public health surveillance, public health investigations, and*
5 *public health interventions, as authorized or required by state or*
6 *federal law or regulation.*

7 (d) Except to the extent expressly authorized by the patient or
8 enrollee or subscriber or as provided by subdivisions (b) and (c),
9 no provider of health care, health care service plan, contractor, or
10 corporation and its subsidiaries and affiliates shall intentionally
11 share, sell, use for marketing, or otherwise use any medical
12 information for any purpose not necessary to provide health care
13 services to the patient.

14 (e) Except to the extent expressly authorized by the patient or
15 enrollee or subscriber or as provided by subdivisions (b) and (c),
16 no contractor or corporation and its subsidiaries and affiliates
17 shall further disclose medical information regarding a patient of
18 the provider of health care or an enrollee or subscriber of a health
19 care service plan or insurer or self-insured employer received
20 under this section to any person or entity that is not engaged in
21 providing direct health care services to the patient or his or her
22 provider of health care or health care service plan or insurer or
23 self-insured employer.

24 *SEC. 3. Section 101080 of the Health and Safety Code is*
25 *amended to read:*

26 101080. Whenever a release, spill, escape, or entry of waste
27 occurs as described in paragraph (2) of subdivision (b) of Section
28 101075 and the director or the local health officer reasonably
29 determines that the waste is a hazardous waste or medical waste,
30 or that it may become a hazardous waste or medical waste
31 because of a combination or reaction with other substances or
32 materials, and the director or local health officer reasonably
33 determines that the release or escape is an immediate threat to the
34 public health, *or whenever there is an imminent and proximate*
35 *threat of the introduction of any contagious, infectious, or*
36 *communicable disease, chemical agent, noncommunicable*
37 *biologic agent, toxin, or radioactive agent, the director may*
38 declare a health emergency and the local health officer may
39 declare a ~~county~~ local health emergency in the ~~county~~
40 *jurisdiction* or any area thereof affected by the threat to the

1 public health. Whenever a local health emergency is declared by
2 a local health officer pursuant to this section, the local health
3 emergency shall not remain in effect for a period in excess of
4 seven days unless it has been ratified by the board of supervisors.
5 The board of supervisors shall review, at least every 14 days until
6 the local health emergency is terminated, the need for continuing
7 the local health emergency and shall proclaim the termination of
8 the local health emergency at the earliest possible date that
9 conditions warrant the termination.

10 *SEC. 4. Section 101080.2 is added to the Health and Safety*
11 *Code, to read:*

12 *101080.2. (a) If there is an imminent and proximate threat of*
13 *human exposures to biological, chemical, toxic, or radiological*
14 *agents that may spread to others and require immediate action,*
15 *including, but not limited to, decontamination, the local health*
16 *officer may issue an order to first responders for the purpose of*
17 *immediately isolating exposed individuals. An order issued*
18 *pursuant to this section shall not be in effect for a period longer*
19 *than two hours and shall only be issued if the means are both*
20 *necessary and the least restrictive possible to prevent human*
21 *exposure.*

22 *(b) Before any implementation of the authority in subdivision*
23 *(a) the local health officer shall establish a related memorandum*
24 *of understanding with first responders in his or her jurisdiction*
25 *that shall be made available to the public.*

26 *(c) A violation of an order issued pursuant to subdivision (a)*
27 *is a misdemeanor, punishable by a fine of up to one thousand*
28 *dollars (\$1000), or by imprisonment in the county jail for a*
29 *period of up to 90 days, or by both.*

30 *SEC. 5. Section 101085 of the Health and Safety Code is*
31 *amended to read:*

32 *101085. (a) After the declaration of a health emergency or a*
33 *county local health emergency pursuant to Section 101080, the*
34 *director or local health officer may do any or all of the following:*

35 *(1) ~~Require~~ Only in the case of a release, spill, escape, or*
36 *entry of waste as described in paragraph (2) of subdivision (b) of*
37 *Section 101075, require any person or organization that the*
38 *director or local health officer shall specify to furnish any*
39 *information known relating to the properties, reactions, and*
40 *identity of the material that has been released, spilled, or escaped.*

1 The director or local health officer may require information to be
2 furnished, under penalty of perjury, by the person, company,
3 corporation, or other organization that had custody of the
4 material, and, if the material is being transferred or transported,
5 by any person, company, corporation, or organization that caused
6 the material to be transferred or transported. This information
7 shall be furnished to the director or local health officer upon
8 request in sufficient detail, as determined by the director or local
9 health officer, as required to take any action necessary to abate
10 the health emergency or ~~county~~ local health emergency or protect
11 the health of persons in the ~~county~~ jurisdiction, or any area
12 thereof, who are, or may be affected. However, the burden,
13 including costs, of furnishing the information shall bear a
14 reasonable relationship to the need for the information and the
15 benefits to be obtained therefrom.

16 (2) Provide the information, or any necessary portions thereof,
17 or any other necessary information available to the director or
18 local health officer to state or local agencies responding to the
19 health emergency or ~~county~~ local health emergency or to medical
20 and other professional personnel treating victims of the local
21 health emergency.

22 (3) Sample, analyze, or otherwise determine the identifying
23 and other technical information relating to the health emergency
24 or ~~county~~ local health emergency as necessary to respond to or
25 abate the ~~county~~ local health emergency and protect the public
26 health.

27 (b) *After the declaration of a local health emergency by the*
28 *local health officer pursuant to Section 101080, the following*
29 *shall apply in the jurisdiction in which the local health*
30 *emergency has been declared:*

31 (1) *Other political subdivisions have full power to provide*
32 *mutual aid to any area affected by a local health emergency in*
33 *accordance with local ordinances, resolutions, emergency plans,*
34 *or agreements therefor.*

35 (2) *State agencies may provide mutual aid, including*
36 *personnel, equipment, and other available resources, to assist*
37 *political subdivisions during a local health emergency or in*
38 *accordance with mutual aid agreements or at the direction of the*
39 *Governor.*

1 (3) *In the absence of a state of war emergency or state of*
2 *emergency, the cost of extraordinary services incurred by*
3 *political subdivisions in executing mutual aid agreements in a*
4 *local health emergency shall constitute a legal charge against*
5 *the state when approved by the Governor in accordance with*
6 *orders and regulations promulgated as prescribed in Section*
7 *8567 of the Government Code.*

8 (c) *Under this section, a local health emergency shall be*
9 *considered a local emergency for purposes of Section 8659 of the*
10 *Government Code.*

11 ~~(b)~~

12 (d) This section does not limit or abridge any of the powers or
13 duties granted to the State Water Resources Control Board and to
14 each regional water quality control board by Division 7
15 (commencing with Section 13000) of the Water Code. This
16 section also does not limit or abridge the powers or duties
17 granted to the State Air Resources Board or to any air pollution
18 control district by Division 26 (commencing with Section
19 39000).

20 This section does not limit or abridge any of the powers or
21 duties granted to the Director of Food and Agriculture or to any
22 county agricultural commissioner by Division 6 (commencing
23 with Section 11401) or by Division 7 (commencing with Section
24 12501) of the Food and Agricultural Code.

25 SEC. 6. *Section 120176 is added to the Health and Safety*
26 *Code, to read:*

27 120176. (a) *In order to prevent or respond to an imminent*
28 *and proximate threat of any serious or life threatening*
29 *contagious, infectious, or communicable disease, chemical agent,*
30 *noncommunicable biologic agent, toxin, or radioactive agent,*
31 *each health officer shall take reasonable measures, which, under*
32 *this section, do not include isolation, quarantine, or detention, as*
33 *may be necessary to prevent the occurrence and spread of the*
34 *disease or adverse health conditions.*

35 (b) *During an outbreak of communicable disease, or upon the*
36 *imminent and proximate threat of communicable disease*
37 *outbreak or epidemic that threatens the public's health, all*
38 *health care providers, clinics, health care service plans,*
39 *pharmacies, their suppliers, distributors, and other for-profit and*
40 *nonprofit entities shall, upon request of the local health officer,*

1 *disclose to the local health officer inventories of, critical medical*
2 *supplies, equipment, pharmaceuticals, vaccines, or other*
3 *products that may be used for the prevention of, or may be*
4 *implicated in the transmission of communicable disease. The*
5 *local health officer shall keep this proprietary information*
6 *confidential.*

7 *SEC. 7. No reimbursement is required by this act pursuant to*
8 *Section 6 of Article XIII B of the California Constitution for*
9 *certain costs that may be incurred by a local agency or school*
10 *district because, in that regard, this act creates a new crime or*
11 *infraction, eliminates a crime or infraction, or changes the*
12 *penalty for a crime or infraction, within the meaning of Section*
13 *17556 of the Government Code, or changes the definition of a*
14 *crime within the meaning of Section 6 of Article XIII B of the*
15 *California Constitution.*

16 *However, if the Commission on State Mandates determines that*
17 *this act contains other costs mandated by the state,*
18 *reimbursement to local agencies and school districts for those*
19 *costs shall be made pursuant to Part 7 (commencing with Section*
20 *17500) of Division 4 of Title 2 of the Government Code.*